

Application Serial No. 10/785,027
Reply to Office Action dated August 18, 2006

REMARKS/ARGUMENTS

On page 2 of the Office Action issued on August 18, 2006, the Examiner set forth a restriction requirement. The Examiner identified Invention I as claim 1 drawn to a pump and filtration assembly, classified in Class 134, subclass 136; Invention II identified as claims 2-19, drawn to a pump and filtration assembly, classified in Class 134, subclass 56D; and Invention III identified as claims 20-22 drawn to a method of operating a dishwasher, classified in Class 134, subclass 25.2. The Examiner argues that inventions I and II are unrelated as the different inventions have different designs and modes of operation. This is clearly not the case. Instead, claims 1 and 2 are related as combination/sub-combination. The Examiner argues that inventions III and I are related as a process and apparatus for its practice and that the process as claimed can be practiced by another dishwasher, such as one without a chopper blade and an apertured plate. Finally, the Examiner argues that inventions III and II are related as a process and apparatus for its practice and that the apparatus as claimed can be used to practice another process, such as one without the step of ceasing a recirculation operation of the pump unit.

As indicated above, claim 1 was presented as a combination claim directed to a dishwasher and requires a pumping unit arranged in a pumping chamber, a conduit leading from a housing and fluidly interconnected the pumping chamber with a wash arm, a sampling port fluidly connected to the conduit for sampling a portion of washing fluid delivered to the wash arm, a filter chamber connected to the conduit for receiving a portion of the washing fluid flowing through the sampling port, a drain passage positioned below the sampling port and a seal member arranged below the sampling port. Independent claim 2 is copied, word-for-word, from claim 1 and focuses on the particulars of the sealing member, while independent claim 11 employs means-plus-function language directed to sealing the drain passage.

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In order to support a requirement for a restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary. As set forth in M.P.E.P. § 806.05(c), inventions are distinct if it can be shown that both a combination as claimed does not require the particulars of the subcombination as claimed and the subcombination can be shown to have either utility by itself or in another material different combination. When these factors cannot be shown, such inventions are not distinct or properly restricted. In the present case, the combination as claimed does require all the particulars of the sub-combination as claimed. That is, as the subject matter of claim 2 is copied word-for-word into claim 1, it would be improper to restrict inventions I and II. Therefore, this restriction is respectfully traversed.


With respect to the restriction between the apparatus and method claims, the Applicant respectfully submits that the method, as claimed, requires many of the particulars of the apparatus such that examining both the method and apparatus together would not place an undue burden on the Examiner. Therefore, the Applicant respectfully requests that the Examiner withdraw the restriction between the method and apparatus claims.

In any event, as required regardless of the traversing of the restriction, the Applicant hereby elects the subject matter of claims 2-19 with traverse in responding to the restriction requirement presented by an Examiner. Again, it is respectfully clear that claim 1 cannot be properly restricted from claims 2-19 under U.S.P.T.O. restriction guidelines. In addition, the Applicant respectfully requests that the Examiner reconsider her position with respect to the separation of the method and apparatus claims. If the

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Examiner should have any questions or concerns regarding this matter, she is cordially invited to contact the undersigned at the provided below in order to further prosecution.

Respectfully submitted,


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